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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,478	07/07/2003	Craig W. Arends	ITW-14190	7797
7590	06/24/2004		EXAMINER	
Kevin D. Erickson Pauley Petersen Kinne & Erickson Suite 365 2800 West Higgins Road Hoffman Estates, IL 60195			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 06/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/614,478	ARENDS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Louis K. Huynh	3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07072003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority Statement***

1. Applicant is respectfully requested to update the status of U.S. Patent Application Serial No. 10/280,205, which is now U.S. Patent No. 6,688,465, in the priority statement of the specification.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4: "a reader" is ambiguous thus renders the claim indefinite because it is unclear as to what reader applicant is referring to and what the reader reads.

Claim 1, lines 5-7: "a control system ... counterclockwise direction" is ambiguous because it is unclear as to what means the control system is able to acquire the initial orientation of the container. Note that the structural/functional relationship between the reader and the control system has not yet been set forth.

Claim 1, lines 8-9: "a chuck ... for rotating the container" is indefinite because the chuck is not inherently rotatable by itself.

Claim 8, lines 7-8: "the chuck rotating the unoriented container" is indefinite because the chuck is not inherently rotatable by itself.

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Claim 8, lines 7-9: “the chuck rotating the unoriented ... rotational orientation” is ambiguous because the chuck does not know and/or recognize the initial orientation or the desired rotational position of the container, and the chuck is not capable of determining the shortest rotational distance; thus, the chuck cannot rotate the container in the shortest rotational distance.

Claim 12, lines 2-3: “the control system calculate ... the desired rotational position” is ambiguous because it is unclear as to what means the control system is able to acquire the initial orientation of the container. Note that the structural/functional relationship between the digital reader and the control system has not yet been set forth.

Claim 12, line 4: “providing a signal to the orienter wheel to *move* the container counterclockwise or clockwise” lacks proper antecedent basis in the written description. Each orienter wheel in the system rotates to move the containers in one respective direction only and does not rotate to move the containers in the opposite direction.

Claim 13 appears to be incomplete for lacking the structural limitation of the container to be oriented. Structural limitation of the container, such as identification mark or image, is necessary for the sensing and determination of the initial position of the container. Furthermore, the claim lacks a step of determining a shortest rotational distance from the initial position to an oriented position between a clockwise direction and a counterclockwise direction.

Claim 15, line 3: “the packaging machine” lacks proper antecedent basis.

Claim 16, line 5: “the packaging machine” lacks proper antecedent basis.

Claim 19 appears to be incomplete for lacking the structural limitation of the container to be oriented. Structural limitation of the container, such as identification mark or image, is necessary for the sensing and determination of the initial position of the container.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nalbach (US 4,561,534).

With respect to Claim 19, Nalbach discloses a method of orienting a container including the steps of: feeding a container (222 or 224) into an orienting device (22) using screw conveyor (176, 178); sensing an initial position of the container using a detector assembly (20) to locate the container's mouth; determining the rotational direction for rotating the container to an oriented position; and rotating the container counterclockwise using a turning blade (202) or clockwise using fingers (206) such that the mouth of the container is turned at the shortest rotation distance (col. 6, lines 5-42).

With respect to Claim 20, the container is rotated approximately 90° in either clockwise direction or counterclockwise direction (FIGS. 4 & 5).

***Allowable Subject Matter***

4. Claims 1-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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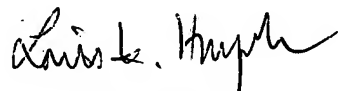
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art..

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
Patent Examiner  
Art Unit 3721

June 17, 2004